

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WICKAPOGUE 1 LLC, NICOLE GALLAGHER, and
MARK GALLAGHER,

Case No.: 2:23-cv-00561

Plaintiffs,

- against -

BLUE CASTLE (CAYMAN) LTD.

Defendant.

DECLARATION OF JASON A. NAGI

JASON A. NAGI, being duly sworn, hereby declares and states:

1. I am a principal at Offit Kurman, P.A., attorneys for defendant Blue Castle (Cayman) Ltd. (“**Defendant**”). I am admitted to practice before the Courts of New York, and am a member of this Court.
2. I submit this Declaration in opposition to the Order to Show Cause for a Temporary Restraining Order and Preliminary Injunction (the “**Motion**”) [Dkt. # 1] submitted by Wickapogue 1 LLC (“**Borrower**”), Nicole Gallagher (“**Pledgor**”), and Mark Gallagher (“**Guarantor**”) (collectively “**Plaintiffs**”).
3. A true and correct copy of the Notice of Public Disposition of Collateral dated November 8, 2022 (the “**Sale Notice**”), which was served upon Borrower and Pledgor, is attached hereto as **Exhibit A**.
4. True and correct copies of the Federal Express tracking information and delivery confirmation are attached hereto as **Exhibit B**.

5. A true and correct copy of the May 28, 2021 Decision and Order of the Hon. Elizabeth Emerson in *Speyside Holdings LLC, et. al. v. Nebari Natural Resources Credit Fund I, LP, et. al.*, Index No. 604646-21, Sup. Crt, Sfk Cnty.) obtained from the New York State Case Electronic Filing System (“NYSCEF”) is attached hereto as **Exhibit C**.

6. A true and correct copy of the November 18, 2021, Decision and Order of the Hon. Andrew Borrok, Commercial Division, New York County, in *Atlas Brookview Mezzanine LLC and Atlas Brookview, LLC v. DB Brookview, LLC*, Index No. 653986/2020 (Sup. Ct. N.Y. Cnty.) (“*Atlas*”) obtained from NYSCEF is attached hereto as **Exhibit D**.

7. A true and correct copy of the November 18, 2021, hearing transcript from *Atlas* obtained from NYSCEF is attached hereto as **Exhibit E**.

8. Subordinate judgments and liens have been recorded against the Property by virtue of confessions of judgments signed by Plaintiffs, in the following dates and in the following amounts, totaling \$8,008,156.69:

- a. Confession of Judgment entered February 23, 2021, in the amount of \$715,225.00;
- b. Confession of Judgment entered February 23, 2021, in the amount of \$885,225.00;
- c. Confession of Judgment entered November 8, 2021, in the amount of \$500,225.00;
- d. Confession of Judgment entered November 8, 2021, in the amount of \$3,200,225.00;
- e. Confession of Judgment entered August 19, 2021, in the amount of \$1,600,000.00;
- f. Confession of Judgment entered November 23, 2021, in the amount of \$500,000.00;
- g. Confession of Judgment dated June 16, 2021, in the amount of \$600,210.00;

h. Notice of Mechanics Lien dated August 26, 2022, in the amount of \$7,046.69.

True and correct copies of the foregoing liens are attached hereto as **Exhibit F**.

9. Plaintiffs attached an unsigned copy of a Pledge Agreement, dated January 30, 2020, to the Motion. (Motion, Ex. B.) While no allegations are made about this document, the January 30, 2020 draft contains nearly identical terms as the Pledge Agreement that was executed. The differences are: (1) the actual dates of the agreements—1/31/20 compared to 2/7/20; (2) Sections 12.8 (Counterparts) and 12.9 (Amendments) of the draft were later combined in one and moved to Section 7.8; and (3) Misnumbering occurred in the draft at the Section titled “Irrevocable Proxy” through the end of the draft document, which was corrected in the signed version.

I declare under penalties of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: February 7, 2023

/s/ Jason A. Nagi
JASON A. NAGI

4878-1581-0383